

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

JOHNSON CITY ENERGY AUTHORITY *
d/b/a BRIGHTRIDGE, *
Plaintiff/Counter-Defendant, *

VS. *

UNITED TELEPHONE SOUTHEAST, LLC, *
d/b/a CENTURYLINK, *
Defendant/Counter-Plaintiff. *

CASE NO.
2:20-cv-00030

COMPRESSED COPY

DEPOSITION OF

ANDREW "ANDY" ICE

(Taken December 14, 2022)

APPEARANCES:

COUNSEL FOR BRIGHTRIDGE: WILLIAM C. BOVENDER
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1212 North Eastman Road
Kingsport, TN 37664

COUNSEL FOR CENTURYLINK: GARY L. EDWARDS
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ALSO APPEARING: JEFF DYKES
Chief Executive Officer
BrightRidge

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DEPOSITION
12-14-22

ANDY ICE
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C A P T I O N

3 The deposition of ANDREW "ANDY" ICE was taken pursuant to
4 notice in the Johnson City, Tennessee law offices of Baker
5 Donelson beginning at 8:32 a.m. on Wednesday, December 14,
6 2022, for use at any trial, hearing or proceeding involving
7 this matter, and for any purpose allowable by and pursuant to
8 the Federal Rules of Civil Procedure.

9 The witness was sworn by Rebecca Overbey, Licensed Court
10 Reporter in and for the State of Tennessee. It is agreed that
11 Rebecca Overbey, Licensed Court Reporter, may take this
12 deposition by electronic recording equipment; transcribe the
13 same to typewriting, using computer technology; and affix the
14 signature of the witness hereto.

15 All other formalities are waived.

All other formalities are waived.

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P. O. BOX 7481
KINGSPORT, TN 37664

1	ANDREW "ANDY" ICE, the witness, having first been duly	1	A. I went back through some old E-mails from the 2018 window
2	sworn, testified as follows:	2	when this started.
3	DIRECT EXAMINATION BY MR. WILLIAM C. BOVENDER:	3	Q. Did you get those yourself or were you supplied them?
4	Q. State your name and current business address for the	4	A. No, those are mine.
5	record.	5	Q. Well, did you bring them out yourself or did somebody
6	A. My name is Andrew Ice. I go by Andy. My work address is	6	instruct you to find them and look at them?
7	101 North Roan Street here in Johnson City, Tennessee.	7	A. No, no one instructed me.
8	Q. Is that the location of the telephone company?	8	Q. Okay. E-mails in 2018. Anything else?
9	A. Yes, sir.	9	A. No, just those documents for that window.
10	Q. All right. I'll sometimes call it the telephone company,	10	Q. Did you review...
11	sometimes call it CenturyLink. We may even talk about	11	A. There was some in 2019 as well. It was that window of the
12	United Telephone.	12	time I was involved with it until the attorneys got
13	A. Okay.	13	involved, then I wasn't involved nearly as much.
14	Q. What's your home address?	14	Q. Okay. Other than speaking with your attorneys in advance
15	A. 1700 Fairway Drive here in Johnson City.	15	of this deposition, did you speak with anyone else in the
16	Q. Okay. Have you ever been deposed?	16	company or former employees of the company about this
17	A. One time about 20 some odd years ago. It was in Kansas	17	deposition?
18	City. It wasn't anywhere close to here. It was another	18	A. I had a brief conversation with Marcy Buckles. She had
19	job, another issue.	19	her deposition a week or so ago.
20	Q. Okay. Have you ever testified in court?	20	Q. What did she tell you about her deposition?
21	A. No, sir.	21	A. That she was nervous, that she at times got flustered
22	Q. If I ask you a question and you don't understand it, just	22	because she was nervous. She said there were questions
23	tell me and I'll restate it.	23	asked about her work career and different titles and
24	A. Okay.	24	positions she held. There were -- a lot of the questions
25	Q. If you need a break at any time, let me know and we'll	25	she said she didn't have any knowledge of, so there wasn't
	5		7
1	stop. That probably won't be a problem for you because	1	anything she could offer or provide. It was a brief
2	I'll probably be stopping and taking breaks before you'll	2	conversation just to see how things went.
3	need them, to be honest with you.	3	Q. Did she discuss with you anything she testified about
4	A. All right.	4	relative to the 1980 agreement?
5	Q. I'm getting over some surgery and I take breaks	5	A. No, sir.
6	frequently. Are you on any kind of medication or	6	Q. Are you nervous today?
7	otherwise that would in any way impair your ability to	7	A. I'm uneasy.
8	understand my questions or to answer my questions?	8	Q. Okay.
9	A. No.	9	A. It's a new procedure for me, so yeah, I would say maybe a
10	Q. Do you know why you're here today?	10	little nervous.
11	A. Partly because of a request to attach cables into the data	11	Q. Well, you need not be nervous.
12	space on our poles.	12	A. Okay.
13	Q. All right.	13	Q. This is not a water boarding or anything like that.
14	A. And our understanding that isn't what the agreement says.	14	A. Right. Once again, it's new and different to me.
15	Q. Okay. Your understanding is that's what the agreement	15	Q. We're just asking some questions. It's not like being in
16	says, are you referring to the 1980 agreement?	16	court even. Did you -- have you had occasions to see any
17	A. Yes, I'm referring to the 1980 agreement.	17	of the transcript of Ms. Buckles' deposition?
18	Q. And who told you that BrightRidge was not supposed to	18	A. No, sir.
19	attach in the data area of the pole?	19	Q. Have you talked to Andrew Chong about his deposition?
20	A. That's what the current agreement between BrightRidge and	20	A. No, sir.
21	ourselves states. It's the agreement for them to have the	21	Q. How about Josh Freeman?
22	top six feet of the pole, a safety separation, and we get	22	A. No, sir.
23	the next four feet.	23	Q. How about Mr. Honeycutt?
24	Q. Okay. What did you do to prepare for your deposition	24	A. No, sir.
25	today?	25	Q. Did you know that Freeman, and Honeycutt, and Chong had
	6		8

1 their poles in their service territory after you came back 2 in 2008? 3 A. That wouldn't have been until 2019. 4 Q. Were there telephone company -- BrightRidge attachments on 5 the telephone company poles in the power company service 6 territory when you came back in 2008? 7 A. There was -- in the electric zone, there was that fiber 8 that I mentioned before to connect their substations. 9 Q. Yeah. 10 A. And that was the only thing that I was aware of. 11 Q. All right. And were you also working with BTES when you 12 came back? 13 A. I did have some interactions with BTES, yes, sir. 14 Q. Did BTES have any type of fiber internet attachments on 15 its poles when you came back in 2008? 16 MR. EDWARDS: Let me just state a continuing objection, and it 17 will be continuing for the deposition, related to 18 questions related to any other attachers outside of the 19 BrightRidge service territory for the reasons previously 20 circulated in E-mails and discussed with counsel. 21 Q. Okay. Thank you. 22 A. I was told that they were deploying fiber and they were 23 placing it in the power zone. 24 Q. Okay. Was there any other TVA distributor in the area you 25 had responsibility for that was doing the same thing that	1 Q. How do you define several years? 2 A. Probably the 2013 window or 2014 window. It was several 3 years later. I didn't realize that they were in the data 4 zone. 5 Q. What did you learn about their internet connections in the 6 telephone zone? 7 A. I learned that's where they had attached their cables was 8 in the data zone. I asked questions about why they were 9 in the data zone and how they received permission to be in 10 the data zone. There was -- the people who had made those 11 arrangements had all retired and left, so I didn't get 12 good replies to my questions. 13 Q. Did you take it upon yourself to do any additional 14 investigation? 15 A. I did some. I asked our administrators of our joint use 16 poles if there had been permission granted for them to be 17 in the data zone. I asked... 18 Q. And what was the answer to that question? 19 A. They didn't have an answer for me. Either A, the people I 20 talked to weren't aware of it, or B, had not granted 21 permission. 22 Q. How did you make that assumption? 23 A. They told me they didn't have any information about it or 24 they told me that they had not granted permission. There 25 was nothing in the contract that we had with them that
25	27

1 you can remember in 2008? 2 A. Not in 2008, no, sir. 3 Q. Okay. You've mentioned your fiber attachments. What kind 4 of fiber attachments did you have in 2008 when you came 5 back on your poles or the poles of the power board? 6 A. It varied in size depending on when they were initially 7 deployed. It could have been anything from a 6 fiber, to 8 a 12 fiber, to a 24, to a 48, to a 144, 72. We had all 9 sizes. 10 Q. Was that an overhanging situation or were they in a 11 separate cable that was an additional attachment to your 12 copper attachments on those poles that belonged to the 13 power board? 14 A. We had both. We had both overhanging and separate 15 attachments. 16 Q. Okay. Now, let's talk a little bit about BVU, subject to 17 Mr. Edwards' objection. When you came back, are you aware 18 in 2008 that BVU had internet connections in the telephone 19 zone? 20 A. I was not aware of it. I heard they had deployed fiber, 21 but I was not aware where the fiber was placed on the 22 poles. 23 Q. At what point in time did you learn that they -- that BVU 24 had placed internet connections in the telephone zone? 25 A. That wasn't until several years later.	1 changed that would allow them to do so. 2 Q. Okay. Who were you talking to? 3 A. Several different people. Some of them are retired. Some 4 of them are still here. Ryan Sikes was one that I spoke 5 with. 6 Q. All right. 7 A. And he'll -- I guess you've got him lined up for some 8 discussions next time or -- I don't know when. I heard 9 his name was on the list. I don't know if you're going to 10 talk to him or not. 11 Q. So you had conversations with Ryan Sikes about the BVU 12 internet attachments in the telephone zone when you came 13 back. 14 A. Uh-huh (Affirmative). 15 Q. Have you had any conversations with Ryan Sikes recently? 16 A. Not about that topic. 17 Q. How do you know about his deposition? 18 A. I'm sorry? He told me yesterday that he was on the list. 19 Q. Okay. 20 A. I'm sorry, I didn't mean to point. I apologize. 21 Q. Well, did you take -- attempt to take any action against 22 BVU for the attachments they made in the telephone space? 23 A. That's still something we're investigating. That's not 24 something that's concluded. 25 Q. Well, you're aware that BVU no longer owns -- they sold
26	28

1	that off. You're aware of that, aren't you?	1	South Carolina, and Georgia. That lasted until the end of
2	A. I had heard that, but that was only recent information	2	'14. In 2014, I switched jobs to take care of our core
3	that I received.	3	network. That was taking care of all of the essential
4	Q. Who gave you that information?	4	office equipment from Texas to Jersey. I was in that job
5	A. Actually, Mr. Bowman, the chairman at BVU. I was on the	5	until the spring of '17. Then I came back to running the
6	phone with him about some things and he mentioned that	6	outside plant and the core network for..
7	they don't own that service anymore.	7	Q. What network?
8	Q. Don Bowman, is that who you're talking about?	8	A. Core, our central office core network that connects all
9	A. Yes, sir.	9	our central offices. I had that job, let's see, probably
10	Q. So you didn't know that that had been sold off?	10	until -- well, until current. I have added and subtracted
11	A. No, sir.	11	pieces and parts since, but it's essentially been the
12	Q. Have you had very much communications with Stacy Evans who	12	same. I've had outside plant and core for those states
13	was at BVU and is now at BrightRidge?	13	since 2017.
14	A. When he was at BVU, no, I don't remember any	14	Q. Outside what?
15	conversations. Since he's been at BrightRidge, it got	15	A. Outside plant.
16	started in August of '18. Counting forward, I've had	16	Q. Plant.
17	conversations -- probably more communications in that fall	17	A. OSP, outside plant.
18	window of '18 and then after the January, February, March	18	Q. Okay. And is that your current job?
19	window of '19. Then it kind of dried up again and I guess	19	A. Yes, sir.
20	I haven't had as much conversations.	20	Q. And you say it's for what states?
21	Q. Did you, yourself, initiate any activity to force BVU to	21	A. I have Tennessee, South Carolina, and Georgia.
22	pay any additional fees because their internet was	22	Q. Who has Virginia?
23	attached in the telephone zone?	23	A. That's taken care of by one of my peers that has all of
24	A. I asked some questions about it, but I didn't -- but I	24	the state of Virginia.
25	didn't take any action or force any action to be taken. I	25	Q. What about western North Carolina?
	29		31
1	don't -- I'm not involved in the billing, so I don't have	1	A. That's taken care of by another peer that has -- there's
2	any responsibility for that. That's taken care of by	2	three different managers in North Carolina that take care
3	others. I can bring it to their attention. I can request	3	of those areas.
4	that they look into it, but I can't bill anyone.	4	Q. Was Mr. Sikes here when you came?
5	Q. So however they got there, they got there, and that	5	A. No, sir.
6	remained the status quo until they were sold off to	6	Q. Has he always been in the Carolinas?
7	somebody else. Is that correct?	7	A. Yes, sir, as far as I know. I mean, I don't know where
8	A. I guess I'm trying to make sure I understand your	8	he's lived, but my interactions with him were when he was
9	statement. How it got there, I don't know. I wasn't	9	in North Carolina.
10	involved with that.	10	Q. And when you say the Carolinas, are you talking about
11	Q. Okay.	11	United Telephone of the Carolinas?
12	A. When it was sold off, yeah, now there's a different entity	12	A. I was talking about North Carolina itself. I don't know
13	that probably -- I say probably. I assume there's an	13	the entity he was working for or with or a subsidiary. I
14	agreement with that company to have attachments with us	14	just know he lived in the Carolinas.
15	and those attachments would be covered underneath that	15	Q. Okay. When you had responsibility for western North
16	agreement.	16	Carolina, did that include Central Telephone?
17	Q. Did you ever review the agreement between BVU and the	17	A. Central Telephone?
18	telephone company, the original agreement?	18	Q. Yeah. Have you ever heard of that?
19	A. No, sir.	19	A. No, sir.
20	Q. After you -- when you came back, bring me up to date now	20	Q. Okay. I'm sorry, this may be a duplicate question. I
21	on what jobs you've held since you came back in 2008.	21	don't remember your answer. Did you -- I want to ask you
22	A. I was manager of engineering, as I mentioned, of...	22	again to make sure. Have you ever seen the original
23	Q. Outside.	23	contract between BVU and the telephone company?
24	A. ...outside plant. Then I picked up additional	24	A. I've never read it, no, sir.
25	responsibilities. I picked up western North Carolina,	25	Q. Okay. Have you read any amendments, if any, that there
	30		32

1 Q. Okay.
2 A. So Ryan checked with his peers, as I mentioned, and this
3 is one of the replies.
4 Q. So you're referring to Page CL491.
5 A. Yes, sir.
6 Q. Donnie response.
7 A. Uh-huh (Affirmative).
8 Q. Did you ever discuss this with Donnie?
9 A. I did not.
10 Q. So was he on the Skype call or anything like that? Where
11 did that come from?
12 A. I don't -- his name is on it, I think. Donnie response.
13 I think that's the same Donnie, but I don't see a last
14 name here, so...
15 Q. Okay.
16 A. ...I'm not entirely sure.
17 Q. All right.
18 A. I can't tell you if he was on that call or not. I don't
19 remember discussing it.
20 Q. Have you been shown a document -- an expert report
21 document from a David Brevitz?
22 A. That name is not familiar to me, no.
23 Q. Okay. Let me talk with Mr. Harvey here for just a minute.
24 A. Okay, sure.
25 ***OFF THE RECORD***

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C E R T I F I C A T E

I, Rebecca Overbey, Licensed Court Reporter in and for the State of Tennessee, do hereby certify that the foregoing deposition of ANDREW "ANDY" ICE was taken at the time and place and for the purpose as stated in the Caption; that the witness was duly sworn by me before deposing; that the said deposition was recorded electronically and was later transcribed to typewriting, using computer technology; and that the foregoing is a true and accurate transcript of the proceedings to the best of my knowledge, ability and understanding.

WITNESS my hand and official seal at my office in Kingsport (Sullivan County) Tennessee on this the 28th day of December, 2022.

Rebecca Overbey
LICENSED COURT REPORTER
State of Tennessee
LCR #078

My License Expires:
June 30, 2024

CERTIFIED ONLY IF AFFIXED SEAL IS GREEN

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1 DIRECT EXAMINATION CONTINUES BY MR. BOVENDER:
2 Q. The Donnie we were talking about...
3 A. Uh-huh (Affirmative).
4 Q. Did you discuss Donnie's reply with anybody?
5 A. No.
6 Q. Did Donnie discuss his reply with you?
7 A. No.
8 Q. Who shared in Donnie's reply, if you recall? It doesn't
9 seem to be documented.
10 A. Who shared -- I'm sorry?
11 Q. Who else saw Donnie's reply?
12 A. Oh, I don't know. I mean, the note was from Andrew, I
13 assume, so I don't know who he shared it with.
14 Q. Okay. Do you have anything? Okay. That is all.
15 A. That's it? Okay.
16 Q. Thank you very much.
17 A. Thank you. I appreciate it.
18 AND FURTHER THE DEPONENT SAITH NOT.

ANDREW "ANDY" ICE

22 BY: Rebecca Overbey
23 Licensed Court Reporter
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25

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